

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EDWARD C. HUGLER, Acting
Secretary of Labor, United States
Department of Labor;

8:17CV37

Plaintiff,

vs.

RAMIREZ PLASTERING, LLC, and
ISMAEL RAMIREZ, individually;

ORDER

Defendants.

Plaintiff moved to exclude Defendants' expert ([Filing No. 34](#)), and for summary judgment, ([Filing No. 36](#)), on February 21, 2018. Before Defendants' response to those motions was due or filed, Defense counsel was granted leave to withdraw. ([Filing No. 41](#)).

Defendants' deadline for responding to Plaintiff's summary judgment motion was extended to April 10, 2018. ([Filing No. 41](#)). Defendant Ismael Ramirez was given until March 27, 2018 to advise the court as to whether he intended to proceed pro se, or to have counsel enter an appearance on his behalf, and Defendant Ramirez Plastering, L.L.C. was given until March 27, 2018 to have an attorney enter an appearance on its behalf. ([Filing No. 41](#)). Defendants' failed to timely comply.

The court entered an order affording Defendants until May 9, 2018 to show cause why the court should not enter a default and/or default judgment against defendants without further notice. ([Filing No. 42](#)). Defendants failed to respond.

Defendants have not responded to Plaintiff's motion for summary judgment. Plaintiff's statement of facts is therefore deemed uncontested. NECivR 56.1(b)(1).

Accordingly,

IT IS ORDERED:

- 1) Plaintiff's motion to exclude Defendants' expert, ([Filing No. 34](#)), is granted as uncontested and for failure to comply with the court's orders.
- 2) As to the issue of liability, judgment is entered in favor of Plaintiff for two reasons:
 - a. Plaintiff's unopposed motion for summary judgment, ([Filing No. 36](#)), is granted; and
 - b. A judgment of default is entered against Defendants for failing to comply with the court's show cause order, ([Filing No. 42](#)).
- 3) As to the issue of damages, Defendants' unopposed motion for summary judgment ([Filing No. 36](#)), is granted, and pursuant to Plaintiff's uncontested facts, Defendants owe a minimum of \$16,680.94 in unpaid overtime back wages related to the 2015 Wage and Hour Division investigation at issue, plus an equal amount of liquidated damages, for a total of \$33,361.88.
- 4) If Plaintiff intends to pursue additional damages, it shall file a motion for determination of damages on or before May 29, 2018, in absence of which, a final judgment will be entered in favor of Plaintiff and against Defendants in the amount of \$33,361.99.
- 5) The clerk shall set a case management deadline of May 30, 2018, and shall mail a copy of this order to Ismael Ramirez and to Ramirez Plastering, LLC at 1205 Monroe Street, Fort Calhoun, NE 68023.

May 14, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge